IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

WP(C).No. 5562 of 2006(K)

PETITIONER:

GRACE CHACKO, WIDOW OF LATE 282098,
EX SERGENT M.C.CHACKO, MADATHIL, NEAR LUTHERAN CHURCH, KESAVADASAPURAM, THIRUVANANTHAPURAM 4.

BY ADV. SRI.V.K.SATHYANATHAN

RESPONDENTS:
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1. UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF DEFENCE, NEW DELHI.

2. THE PRINCIPAL CONTROLLER OF DEFENCE ACCOUNTS (PENSION),, DRAUPADIGHAT, ALLAHABAD.

3. AIR OFFICER COMMANDING, AIR FORCE RECORD OFFICE, SUBROTO PARK, NEW DELHI.

4. RESERVE BANK OF INDIA, ESTABLISHMENT SECTION, BAKERY JUNCTION, THIRUVANANTHAPURAM.

BY ADV. SRI. P.PARAMESWARAN NAIR, ASSISTANT SG
SRI.P.JACOB VARGHESE, SC, RBI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 5562/2006 K

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE LETTER DT. 29/3/2005 FROM THE R3.

EXT.P2. COPY OF THE JUDGMENT DT. 3/4/02 IN OP NO. 32884/2002.

EXT.P3. COPY OF THE JUDGMENT IN WA NO. 1445/2003.

EXT.P4. COPY OF THE JUDGMENT IN WA NO. 45/2000.

RESPONDENT'S EXHIBITS

EXT.R1. COPY OF THE RULE 195 OF THE PENSION REGULATION FOR THE AIR FORCE DATED NIL.

EXT.R2. COPY OF THE COMMUNICATION BY THE GOVT. OF INDIA DT. 28/08/2001.

True copy

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K. BALAKRISHNAN NAIR, J.

W.P.(C) No.5562 of 2006 (K)

Dated this the 22nd June, 2007.

JUDGMENT

The petitioner is the widow of an Ex-Serviceman. Her husband, after discharge from the Air Force on 31.8.1983, joined the Reserve Bank of India. While in the service of the said Bank, he died on 6.9.1993. The petitioner is paid family pension from the Bank. She staked her claim for family pension from the Central Government also, as the widow of a military pensioner. But, the said claim was rejected by Ext.P1, on the ground that she is already receiving family pension from the Reserve Bank of India. This writ petition is filed, challenging Ext.P1.

2. The point raised by the petitioner is covered by Exts.P2 to P4 judgments. But, the learned counsel for the respondent submitted that those judgments were rendered, without noticing Ext.R1 rules, governing the grant of family pension. The relevant rule, relied on by the respondent, reads as follows:

> "195. A relative specified in regulation 192 shall be eligible for the grant of family pension, provided--

General

(a) he or she is not in receipt of another pension from Government;

(b) he or she is not employed under Government. (But see regulation 198).

Widow

(c) a widow has not remarried.

This condition shall not apply to a widow who re-married her deceased husband's brother, and continues to live a communal life with and/or contributes to the support of the other living eligible heirs."

So, if she is receiving pension from the Government, she is ineligible to get family pension, it is submitted. But, going by the above provisions, it could be seen that a Central Government pensioner cannot get further family pension from the Central Government. In this case, the writ petitioner is getting family pension from the Reserve Bank of India, which cannot be equated with the Central Government. Therefore,. The contention of the respondents, relying on Ext.R1, cannot be accepted. Ext.P1 is, therefore, quashed. Respondents 1 to 3 are directed to pay family pension to the

petitioner, including arrears thereof, within three months from the date of receipt of a copy of this judgment.

This writ petition is allowed as above.

K. BALAKRISHNAN NAIR,
JUDGE.

vav.